UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,434	09/29/1999	ALOK AGGARWAL	YO999-390	2755

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EXAMINER
BROWN, TIMOTHY M

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Office Action Summary	09/407,434	AGGARWAL ET AL.
	Examiner	**Art Unit**	
	Tim Brown	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _27 May 2003_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-6 and 8-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-6 and 8-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

U.S. Patent and Trademark Office
PTO-326 (Rev. 04-01)   Office Action Summary   Part of Paper No. 18

DETAILED ACTION

1.   This non-final Office action is responsive to Applicants' correspondence

submitted May 27, 2003. Claims 1-6 and 8-10 are pending.

Applicant's request for reconsideration of the finality of the rejection of the last

Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicants' claim amendments have been entered.

Response to Arguments

2.   Applicants have persuasively argued that Franklin et al. (US 6,125,352) fails to

teach or suggest "a negotiation profile, wherein the profile is updated during

negotiation." Paper No. 17. Consequently, the rejection of claims 1-6 and 8-10, which

relies upon Franklin for teaching this feature, has been withdrawn.

3.   However, upon thoughtful consideration, the Examiner submits Solomon (US

6,035,288) anticipates Applicants' invention. The Examiner notes Applicants' invention

was previously rejected under Solomon, and that this rejection was erroneously

withdrawn in the last Office action. The Examiner further notes that in their submission

of June 27, 2002 (Paper No. 10), Applicants argued Solomon lacks a teaching of having

the customer capture and formulate a profile of the e-commerce site. Paper No. 10, p.

4. The Examiner responds to these points as follows.

Solomon teaches a method for providing an interactive negotiation session

wherein "[a] customer or user of the system engages in dialog with the simulated

merchant in connection with the input of a monetary offer for the desired merchandise."

Col. 1, lines 62-65. According to Solomon, "[e]ach time a customer submits a new

counter offer, the database engine uses various data to compute a new merchant offer and emotional state." Col. 5, lines 8-11. By engaging Solomon's virtual merchant in dialog, the user collects profile information on the merchant including emotional states and the merchant's reaction to different offers. Thus, Solomon teaches "formulating by the customer, a profile of the on-line e-commerce site and updating the profile based on said capture actions" as recited in claim 1.

Solomon further teaches having the customer change the e-commerce site's profile during negotiations. As noted above, Solomon discloses a method wherein "[a] customer or user of the system engages in dialog with the simulated merchant *in connection with the input of a monetary offer* for the desired merchandise." Col. 1, lines 62-65 (emphasis added). Thus, by engaging the merchant in an online chat, the customer gains an understanding of the merchant's behavior during the negotiation process. Therefore, Solomon teaches "changing by the customer the on-line e-commerce site's dynamically changing profile during negotiations based on an observed behavior of the on-line e-commerce site" as recited in claim 1.

4.   Applicants previously argued Solomon fails to teach "'human-computer interfaces on both sides of the negotiation.'" Paper No. 10, p. 4. However, the Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Consequently, Applicants' argument that Solomon fails to teach human-computer interfaces is moot.

5.   Applicants presently argue the combination of Birkhead (Birkhead, E. "Digging

with Gopher" LAN Computing, Vol. 5, no. 4 (April 1994)) and Solomon constitutes

improper hindsight reasoning. Paper No. 17, p. 8. Applicants' arguments are

persuasive. Consequently, the rejection of claims 8-10 under Birkhead is withdrawn.

Claim Rejections - 35 USC § 102

6.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

7.   **Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by**

Solomon.

Regarding claim 1, Solomon teaches a computer assisted on-line negotiation

method comprising the steps of:

generating off-line by an on-line e-commerce site static customer profiles based

on past history that the site has about various customers, including multiple value

attributes (col. 1, line 67; col. 2, lines 1-5; and col. 3, lines 12-14 and 43-52);

assigning by the e-commerce site a static customer profile to a new customer

visiting the on-line e-commerce site, the initial assignment to a profile being based on

said static customer profiles and whatever information is available about the customer

at the time of assignment (col. 3, lines 60-64; and col. 4, lines 1-7); .

capturing by the customer the on-line e-commerce site's actions (col. 1, lines 60-

64; and col. 5, lines 8-10 and 36-42);

formulating by the customer a profile of the on-line e-commerce site based on

past history that the customer has about various sites,[1] including multiple value

attributes, and updating the profile based on said captured actions (col. 5, lines 36-42);

negotiating by the on-line e-commerce site with the customer based on a

dynamically changing profile of the customer (col. 1, lines 44-61; col. 3, lines 60-67; col.

4, lines 63-67; and col. 5, lines 1-19);

negotiating by the customer with the on-line e-commerce site based on a

dynamically changing profile of the site (col. 1, lines 60-64; and col. 5, lines 8-10 and

36-42);

changing by the on-line e-commerce site the customer's static profile during

negotiations based on an observed behavior of the customer, said static profile thereby

being dynamic during said negotiations (col. 4, lines 1-7); and

changing by the customer the on-line e-commerce site's static profile during

negotiations based on an observed behavior of the on-line e-commerce site, said static

profile thereby being dynamic during said negotiations (col. 1, lines 60-64; and col. 5,

lines 8-10 and 36-42);

wherein said customer profiles are comprised of information useable to the

advantage of the e-commerce site in said on-line negotiation with customers and

wherein said e-commerce site profiles are comprised of information useable to the

advantage of the customer in said on-line negotiation (col. 1, lines 60-64; col. 4, lines 1-

7; and col. 5, lines 8-10 and 36-42).

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[1] Note the Examiner construes "various sites" to include the e-commerce site with which the customer is

Regarding claim 2, Solomon further teaches a computer assisted on-line

negotiation method further comprising the step of updating past history information

based on the negotiations with the customer (col. 4, lines 1-7).

Regarding claim 3, Solomon further teaches a computer assisted on-line

negotiation method wherein the attributes included in the past history information

include non-quantitative information (col. 4, lines 1-7).

Claim Rejections - 35 USC § 103

8.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

9.   Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Solomon in view of Gerace (US 5,991,735).

Regarding claim 4, Solomon teaches all the limitations discussed under claim 3

above. Solomon does not specifically teach a computer assisted on-line negotiation

method wherein the non-quantitative information includes season and time of day.

However, Gerace teaches creating a customer profile wherein the profile comprises the

date and time when the customer accessed a particular website (col. 7, lines 4-47). At

the time of the applicant's invention, it would have been obvious to one of ordinary skill

in the art, to modify the teachings of Solomon to include the teachings of Gerace.

Providing the method of Solomon with the step of updating past negotiation history

information with non-quantitative information including season and time of day would

provide the e-commerce website with greater bargaining power because the e-

negotiating.

commerce site would have a means for estimating a customer's needs at a particular time.

Regarding claim 5, Solomon teaches all the limitations discussed under claim 1 above. Solomon does not specifically teach a computer assisted on-line negotiation method further comprising the steps of: capturing by the on-line e-commerce site the customer's "click-through stream" and other direct interaction with the on-line e-commerce site; and analyzing the interaction with the on-line e-commerce site to update the customer's dynamic profile. Gerace teaches recording the link from which the customer accesses an on-line targeted advertising system (col. 7, lines 4-47). Gerace also teaches storing each click of a customer's mouse to record a user's motion and movements during a session with the targeted advertising system (Id.). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Solomon to include the teachings of Gerace. By capturing by the on-line e-commerce site the customer's "click-through stream" and other direct interaction with the on-line e-commerce site and analyzing the interaction with the on-line e-commerce site to update the customer's dynamic profile, the e-commerce site would be informed of which items the customer finds most interesting. Thus, the e-commerce site would be afforded greater bargaining power by knowing the customer's preferences.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon in view of Gerace and further in view of Dedrick (US 5,717,923).

Solomon teaches all the limitations discussed under claim 5 above. Solomon does not teach a computer assisted on-line negotiation method wherein the other direct interaction includes the customer's voice and physical actions. Gerace teaches recording a user's motions/movements through a website (col. 7, lines 16-29). Dedrick teaches an input means for modifying a customer's profile using a voice input means (col. 5, lines 16-33). At the time of the applicant's invention, it would have been obvious to one having ordinary skill in the art, to modify the method of Solomon to include the teachings of Gerace and Dedrick. By recording a customer's direct interaction with the method of Solomon, including the customer's voice and physical actions, the Solomon method would be informed of the mood of the customer thereby allowing the method to respond to the customer's mood.

11. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 6,035,288) in view of an article from Library Technology Reports ("Search Engine and DBMS Directory" Library Technology Reports (July 1998)) ("Library Technology") and Davis (Davis, J. W. "Take your data to the Net" PC/Computing, Vol. 10, no. 2 (February 1997)).

Regarding claim 8, Solomon teaches all the limitations discussed under claim 1 above. Solomon does not specifically teach an on-line negotiation method further comprising the steps of storing by the customer a formulated profile of the on-line e-commerce site in a database of on-line e-commerce site profiles, and accessing the on-

line e-commerce site from the database by the customer to begin negotiations with the on-line e-commerce site. However, Library Technology teaches creating a profile of a plurality of vendor Websites wherein the profile includes a vendor name and a vendor URL. Page 1. Furthermore, Davis teaches a computer application that assists users in creating a database wherein the database may incorporate hyperlinks for accessing an Web page. Page 1. At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Solomon to include the teachings of Library Technology and Davis. By adding the steps of having the customer store a formulated profile of the on-line e-commerce site in a database of on-line e-commerce site profiles, and accessing the on-line e-commerce site from the database by the customer to begin negotiations with the on-line e-commerce site, the Solomon method would be allowed to provide customers with quick access to on-line e-commerce websites in the context of detailed merchant information.

Regarding claim 9, Solomon further teaches a computer assisted on-line negotiation method recited further comprising the step of dynamically modifying by the customer the on-line e-commerce site's profile during negotiations with the on-line e-commerce site based on actions by the on-line e-commerce site (col. 4, lines 16-32 and 63-67; and col. 5, lines 1-7).

The examiner interprets claim 10 to mean a computer assisted on-line negotiation method wherein dynamic modifications to the e-commerce site's profile includes changes to prices of items offered for sale, packaged deals and bonuses. The

examiner notes that Solomon teaches this limitation (col. 4, lines 63-67; and col. 5, lines 1-20).
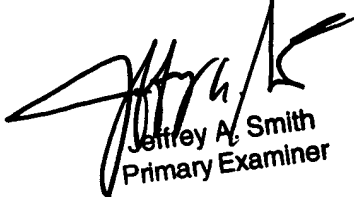
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (703) 305-1912. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

<div style="text-align: right">
Tim Brown
Examiner
Art Unit 3625
</div>

TB
June 19, 2003

Jeffrey A. Smith
Primary Examiner

U.S. Depa⬤ment of Commerc

Patent and Trademark Office
Assistant Commissioner of Patents
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FAX COVER SHEET

To: Clyde R. Christofferson   **From:** Tim Brown

Fax: (703) 787-7557   **Art Unit:** 3625

Serial No.: 09/407,434   **Date:** June 20, 2003

CC: **Phone No.:** (703) 305-1912

Urgent   ☒ **For Review**   ☐ **Please Comment**   ☐ **Please Reply**   ☐ **Per Your Request**

● **Comments:** Courtesy copy of Paper No. 18 Mailing date to be determined.

Number of Pages 12, including this page.

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